

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BAYER CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:06-CV-507
	)	
UNITED STATES OF AMERICA,	)	Hon. Judge Schwab
	)	
Defendant.	)	

ANSWER TO COMPLAINT

The United States of America, by and through its undersigned counsel, answers plaintiff's complaint as follows:

1. The allegations of paragraph one constitute plaintiff's characterization of the action to which no response is required. However, to the extent a response may be required, the United States admits that plaintiff's complaint seeks a refund of federal taxes under 26 U.S.C. § 7422, but denies that plaintiff is entitled to any of the relief described in paragraph one.

2-4. The United States admits the allegations of paragraphs two through four.

5. The United States denies the allegations of paragraph five for lack of knowledge or information sufficient to form a belief as to the truth of the matters.

6-7. The United States admits the allegations of paragraphs six and seven.

8-11. The United States denies the allegations of paragraphs eight through eleven for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

12. The United States admits the allegations of paragraph twelve, except denies the last sentence for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

13. The United States admits the allegations of paragraph thirteen.

14-18. The allegations of paragraphs fourteen through eighteen constitute statements of law to which no response is required. To the extent a response may be required to paragraph sixteen, the United States denies the allegations for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

19-20. The United States denies the allegations of paragraph nineteen for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

21. The allegations of paragraph twenty-one constitute a statement of law to which no response is required.

22. The United States denies the allegations of paragraph twenty-two for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

23. The United States denies the allegations of paragraph twenty-three.

24. The United States denies the allegations of the first sentence of paragraph twenty-four for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted. Regarding the second sentence of paragraph twenty-four, the United States admits that it has not refunded any overpayment, but denies the plaintiff is entitled to any refund until it proves that it purchased non-taxable communications services and the amount of the services.

25. The United States denies the allegations of paragraph twenty-five for lack of

knowledge or information sufficient to form a belief as to the truth of the matters asserted.

WHEREFORE, the United States respectfully requests that this Honorable Court dismiss plaintiff's complaint with prejudice, and for any such other and further relief as the Court deems appropriate under the circumstances.

DATED: June 25, 2006

MARY BETH BUCHANAN  
United States Attorney

s/ R. Scott Clarke  
R. SCOTT CLARKE  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 227  
Ben Franklin Station  
Washington, D.C. 20001  
Telephone: (202) 307-6647

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing ANSWER TO PLAINTIFF'S COMPLAINT has been made this 25<sup>th</sup> day of June, 2006 by mailing, postage prepaid, addressed to:

John H. Riordan  
Polito & Smock, P.C.  
Four Gateway Center, Suite 400  
Pittsburgh, PA 15222-1237

s/ R. Scott Clarke  
R. Scott Clarke  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 227  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 307-6647